

DAC 12



**MS PETITION**  
Docket No.: 3782-0198P  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Linus WIEBE et al.

Application No.: 09/987,159

Confirmation No.: 6434

Filed: November 13, 2001

Art Unit: 3624

For: NETWORK-BASED SYSTEM

Examiner: D. F. Charles

**PETITION UNDER 37 C.F.R. § 1.181**  
**TO WITHDRAW THE HOLDING OF ABANDONMENT**

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request withdrawal of the holding of abandonment under 37 CFR 1.181. The Notice of Abandonment states that the above identified application is abandoned in view of Applicant's failure to timely file a proper reply to the Office letter (i.e., the Advisory Action) mailed on September 26, 2005. More specifically, the Notice states that no reply was received. However, Applicants note that the Advisory Action states "[t]he final rejection in this application is withdrawn. The amendment filed 6/22/05 will be entered and treated as a [sic] an amendment after a non-final rejection. An action will be forthcoming." Therefore, there was no reply to the Advisory required by Applicant. Accordingly, Applicants failure to reply cannot result in the application being abandoned. Furthermore, Applicants note that the Interview

Summary dated September 23, 2005 also states that the final rejection of March 25, 05 has been withdrawn and a subsequent action will be forthcoming. (Courtesy copies of the Advisory Action and Interview Summary are included herewith.)

For at least those reasons presented above, Applicants respectfully request that the holding of abandonment for the above-identified application be withdrawn.

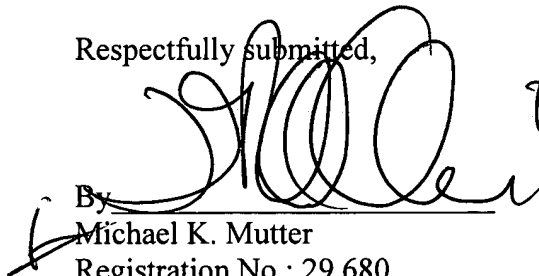
Finally, Applicants representative spoke with Supervisory Patent Examiner Millin regarding this application. Per the telephone conversation, it was Applicants representative's understanding that the error would be corrected and the record updated accordingly. However, to date, it does not appear that anything has been done concerning this matter. Accordingly, Applicants are filing the present request.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Penny Caudle (Reg. No. 46,607) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: July 24, 2006

Respectfully submitted,

 H 4C, 43T

By

Michael K. Mutter

Registration No.: 29,680

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8110 Gatehouse Road

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Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant

Attachments: Interview Summary dated September 23, 2005  
Advisory Action dated September 26, 2005



## Interview Summary

Application No.

09/987,159

Applicant(s)

Wiebe et al

Examiner

Charles

Art Unit

3624

All participants (applicant, applicant's representative, PTO personnel):

(1) V.M. Millin

(3) \_\_\_\_\_

(2) M. Mutter

(4) \_\_\_\_\_

Date of Interview: 9/23/05Type: a) ☒ Telephonic b) ☐ Video Conferencec) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No

If Yes, brief description: \_\_\_\_\_

Claim(s) discussed: allIdentification of prior art discussed: NoneAgreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: see Below

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

① The Final Rejection of 3/25/05 HAS BEEN WITHDRAWN

② The Amendment AFTER FINAL OF 6/27/05 will be treated AS AN AMENDMENT AFTER A NON-FINAL REJECTION.

③ AN ACTION will be forthcoming

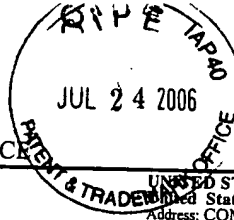
VINCENT MILLIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required



UNITED STATES PATENT AND TRADEMARK OFFICE



JAV  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,159	11/13/2001	Linus Wiebe	3782-0198P	6434

2292 7590 09/26/2005  
BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER  
CHARLES, DEBRA F

ART UNIT 3624 PAPER NUMBER

COPY

DATE MAILED: 09/26/2005

REVIEWED BY  
DOCKETING

mm 9-27-05

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/987,159

Examiner

Debra F. Charles

Applicant(s)

WIEBE ET AL

Art Unit

3624



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires 6 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: See Continuation Sheet.

8/31/2005



Continuation of 11. .

Continuation of 13. Other: The final rejection in this application is withdrawn. The amendment filed 6/22/05 will be entered and treated as a an amendment after a non-final rejection. An action will be forthcoming...

VINCENT MILLIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

A handwritten signature in cursive script, appearing to read "Vincent Millin".